

## **HOUSE BILL No. 1119**

DIGEST OF HB 1119 (Updated January 28, 2002 8:39 PM - DI 47)

Citations Affected: IC 15-4.

**Synopsis:** Seed contracts. Provides that a contract for the delivery of seed in Indiana or seed intended to be grown in Indiana is considered to contain certain provisions relating to: (1) the law under which the contract is interpreted; (2) rights of the parties to the contract to inspect crops grown from the seed and other plants on the farmer's property; (3) certain property rights relating to the seed; and (4) litigation under the contract or property rights in the seed. Provides a farmer a cause of action against a seed supplier that takes certain actions relating to a seed contract that violates the statute. Provides that the statute does not apply to a seed contract entered into before July 1, 2003, or to a seed production contract.

Effective: Upon passage.

## Grubb, Friend

January 8, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.

January 29, 2002, amended, reported — Do Pass.





Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2001 General Assembly.

## **HOUSE BILL No. 1119**

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 15-4-13 IS ADDED TO THE INDIANA CODE AS
2	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3	PASSAGE]:
4	Chapter 13. Seed Contracts
5	Sec. 1. (a) Except as provided in section 2 of this chapter, this
6	chapter applies to a seed contract for seed that is planted in
7	Indiana.
8	(b) Other applicable Indiana law not in conflict with this
9	chapter applies to a seed contract.
10	Sec. 2. This chapter does not apply to either of the following:

- (1) A seed contract entered into before July 1, 2003.
- (2) A production contract.
- 13 Sec. 3. As used in this chapter, "production contract" refers to 14 any of the following:
  - (1) A contract for seed to be grown to develop new plant varieties for research.
  - (2) A contract to produce seed for a party to the contract who

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1	intends to resell the seed produced under the contract.
2	(3) An identity preserved contract.
3	Sec. 4. As used in this chapter, "seed" refers to agricultural seed
4	or vegetable seed (as defined in IC 15-4-1-3) used to grow a
5	commercial agricultural or a commercial vegetable crop.
6	Sec. 5. (a) As used in this chapter, "seed contract" refers to the
7	bargain of the parties in fact as found:
8	(1) in their language; or
9	(2) by implication from other circumstances, including course
10	of dealing, usage of trade, or course of performance;
11	under which a farmer acquires the right to plant and grow the
12	seed.
13	(b) The term does not include a production contract.
14	Sec. 6. As used in this chapter, "seed supplier" refers to any
15	person who has rights under a seed contract other than the farmer.
16	Sec. 7. (a) The provisions of this chapter are considered to be a
17	part of a seed contract regardless of whether the contract is oral or
18	in writing.
19	(b) A written seed contract is not required to contain or restate
20	any provision of this chapter.
21	(c) A bag or other container used by the seed supplier to deliver
22	the seed to the farmer is not required to have a label or any other
23	writing on the bag or container containing or restating any
24	provision of this chapter. A label or any other writing on a seed
25	bag or container inconsistent with this chapter is not enforceable
26	against a farmer.
27	Sec. 8. A provision of a seed contract in conflict with this
28	chapter is void.
29	Sec. 9. A provision of a seed contract that purports to waive a
30	provision of this chapter is void.
31	Sec. 10. A seed contract is governed by the laws of Indiana.
32	Sec. 11. A provision in a seed contract providing confidentiality
33	for the terms of the seed contract is void.
34	Sec. 12. (a) As used in this section, "commissioner" refers to the
35	state seed commissioner designated under IC 15-4-1-2.
36	(b) A seed contract may not give or be interpreted to give a seed
37	supplier or an agent of a seed supplier the right to enter real
38	property owned or occupied by the farmer to acquire samples of
39	the crop grown from the seed or any other plant growing on the
40	real property unless all of the following apply:
41	(1) The seed supplier gives written notice to the farmer and

the commissioner of the seed supplier's intent to enter the real



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1	property. The notice must be given not later than five (5)
2	business days before the day the seed supplier or the seed
3	supplier's agent enters the real property. The notice must
4	include the following information:
5	(A) The date and time of the entry upon the land.
6	(B) The purpose for the entry upon the land.
7	(2) The seed supplier must permit the farmer, the
8	commissioner, or the agents of the farmer or the
9	commissioner to accompany the seed supplier or the seed
10	supplier's agent while samples are taken.
11	(3) The seed supplier must permit the farmer, the
12	commissioner, or the agents of the farmer or the
13	commissioner to take matching samples or receive split
14	samples of any samples taken by the seed supplier.
15	(4) The seed supplier must provide reasonable cooperation to
16	the farmer, the commissioner, or the agents of the farmer or
17	the commissioner during the course of activities described in
18	subdivisions (2) and (3).
19	(c) If the commissioner or an agent of the commissioner
20	accompanies the seed supplier on the real property to take samples
21	under this section, the seed supplier and the farmer shall each pay
22	fifty percent (50%) of the reasonable costs incurred by the
23	commissioner or the commissioner's agent, as determined by the
24	commissioner, in connection with such activities.
25	(d) In an action on the seed contract between the seed supplier
26	and the farmer, the prevailing party may recover the costs that the
27	prevailing party paid under subsection (c) in addition to any other
28	damages to which the prevailing party is entitled.
29	(e) A seed supplier may obtain an order from a court with
30	jurisdiction authorizing the seed supplier or the seed supplier's
31	agent to enter real estate owned or occupied by a farmer where
32	seed that is the subject of a seed contract is growing. However, if
33	the court issues such an order, the order must require that if any
34	samples are taken, matching or split samples must be taken by a
35	person who is independent from the seed supplier.
36	(f) The commissioner may adopt rules under IC 4-22-2 to
37	implement this section.
38	Sec. 13. A farmer is not liable for breach of the seed contract or
39	breach of any of the seed supplier's property rights when a product
40	in which the seed supplier has rights is possessed by the farmer or
41	is found on real property owned or occupied by the farmer under



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any of the following circumstances:

1	(1) Under the seed contract.
2	(2) Because of natural contamination or any other
3	circumstance unintended by the farmer and when the farmer
4	did not obtain financial benefit from possession of the
5	product.
6	Sec. 14. (a) A seed contract may not contain a provision under
7	which the farmer agrees to jurisdiction and venue of any named
8	courts to adjudicate disputes arising under the seed contract or
9	concerning any of the seed supplier's property rights in the seed.
10	(b) Jurisdiction and venue shall be determined as provided in
11	applicable general law and the applicable federal or state rules of
12	civil procedure.
13	Sec. 15. (a) As used in this section, "suit" refers to a suit on the
14	seed contract or a suit to enforce any of the seed supplier's
15	property rights in the seed.
16	(b) If a seed supplier files suit against a farmer, all of the
17	following apply:
18	(1) The seed supplier shall provide simultaneous written
19	notice of the suit to the commissioner of agriculture.
20	(2) If the farmer substantially prevails in the action or if the
21	suit is dismissed, the seed supplier is liable to the farmer for
22	all reasonable attorney's fees and other reasonable litigation
23	costs. However, this subdivision does not apply in either of the
24	following cases:
25	(A) All parties to the suit consent to dismissal of the suit.
26	(B) All parties to the suit enter into an agreement to settle
27	the suit.
28	(c) Failure to give notice of the suit to the commissioner of
29	agriculture as provided in subsection (b) does not impair the
30	jurisdiction of the court to hear the suit.
31	(d) A seed supplier that fails to give notice to the commissioner
32	of agriculture as provided in subsection (b) commits a Class B
33	infraction.
34	(e) The commissioner of agriculture shall keep a file of all
35	notices of suits received under this section.
36	Sec. 16. (a) This section does not apply to a dispute between seed
37	suppliers.
38	(b) A farmer has a right of action against a seed supplier if any
39	of the following apply:
40	(1) The seed supplier or an agent of the seed supplier enters
41	real property owned or occupied by the farmer in violation of



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section 12 of this chapter.

(2) The seed supplier attempts to enforce contract rights or any property rights in seed provided under a seed contract	
that violates this chapter.	
(c) If a farmer prevails in an action filed under this section, the	
farmer may obtain all the following:	
(1) An amount equal to any judgment obtained by the seed	
supplier against the farmer in an action for:	
(A) breach of contract; or	
<ul><li>(B) violation of any of the seed supplier's property rights.</li><li>(2) Any other actual damages proven by the farmer.</li></ul>	
(3) Reasonable attorney's fees and all other reasonable	
litigation costs.	
SECTION 2. An emergency is declared for this act.	
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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1119, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, delete "January" and insert "July".

Page 2, between lines 1 and 2, begin a new line block indented and insert:

"(3) An identity preserved contract.".

Page 2, line 24, delete "not".

Page 2, line 24, delete "does not violate" and insert "is not enforceable against a farmer.".

Page 2, delete line 25.

Page 3, between lines 23 and 24, begin a new paragraph and insert:

"(d) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (c) in addition to any other damages to which the prevailing party is entitled.".

Page 3, line 24, delete "(d)" and insert "(e)".

Page 3, line 31, delete "(e)" and insert "(f)".

Page 3, line 31, delete "of agriculture".

Page 4, line 31, after "seed" insert "suppliers.".

Page 4, delete line 32.

and when so amended that said bill do pass.

(Reference is to HB 1119 as introduced.)

LYTLE, Chair

Committee Vote: yeas 9, nays 2.

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